

HONOURABLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE
AND
HONOURABLE SHRI JUSTICE C.V.NAGARJUNA REDDY

WRIT APPEAL No.1222 OF 2006

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Between:

Board of Directors,
Rayalaseema Grameena Bank,
Kadapa.

... Appellant

And

S.Adinarayana Reddy

...Respondent.

:: J U D G M E N T ::

Counsel for the appellant : Ms. V.Uma Devi

Counsel for the respondent : Sri P.Sridhar for
Sri V.Hariharan.

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29th November 2006

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Per G.S.SINGHVI, C.J.

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This is an appeal for setting aside order dated 22-8-2006 passed by the learned Single Judge whereby he disposed of the writ petition filed by respondent – S. Adinarayana Reddy and partially annulled the punishment imposed on him by the competent authority of Rayalaseema Grameena Bank, Kadapa (for short, ‘the bank’).

On the joint request made by the learned counsel for the parties, we are finally disposing of the appeal at the admission stage.

A perusal of the record shows that while he was holding the post of Field Supervisor, a criminal case was registered against the respondent at the instance of M.Renuka Aradhya, who alleged that he had been physically assaulted on 3-12-1992. The respondent was arrested. He remained in custody for more than 48 hours. Consequently, he was placed under suspension with effect from 14-12-1992. After three months, a departmental enquiry was initiated against the respondent under the Rayalaseema Grameena Bank (Staff) Service Regulations, 1980 (for short, 'the 1980 Regulations') on the following charges:

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"You had proceeded to Punganur on 27-11-1992 along with Dr. A. Venkat Reddy, Veterinary Assistant Surgeon and beneficiaries of Kuppam, Kuppam Harijanwada and Mahadevapalli Harijanawada for purchasing of 25 cross breed cows under IRDP 1991-92 (second animal).

You had taken 4 demand drafts for the total amount of Rs.1,37,500/- (Rupees one lakh thirty seven thousand five hundred only) being the proceeds of 25 cows as per the unit cost of Rs.5500/- each. The particulars of demand drafts are as under:

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<u>Sl. No.</u>	<u>D.D.No.</u>	<u>Date</u>	<u>Amount</u>	<u>Purchased at</u>	<u>Drawn on</u>
1.	631255	23.11.92	40,000/-	SBI, Vaimpalli	SBI, Chintamani
2.	631257	23.11.92	40,000/-	-do-	-do-
3.	631256	23.11.92	40,000/-	-do-	-do-
4.	397508/1	23.11.92	37,500/-	RG Bank,BT Palli	Syndicate Bank, _____
				Madanapalli.	
			----- 1,37,500/-		

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Out of the above total amount, you had made part

payment of Rs.75,825/- to some of the sellers and Rs.4,500/- towards lorry freight charges, keeping the remaining balance of Rs.57,175/- with you.

You had given a written undertaking to pay an amount of Rs.37,500/- being the balance amount to Sri R.Mukherjee, one of the sellers, on behalf of all the sellers, after encashing D.D.No.39708/1 for Rs.37,500/- at Syndicate Bank, Madanapalli. Instead of paying the amount after encashing the above DD on 30.11.92 you had pocketed the same and thus defrauded the sellers to the extent of Rs.37,500/-.

You had also produced bills to the bank for the total amount, as if the entire amount had been paid to the sellers, though you had paid only part of the amount and misrepresented the facts to the bank.

When Mr.M.Renukaradhya approached you on 3.12.92 for payment of Rs.37,500/- instead of paying the amount you had mishandled him, snatched away the undertaking letter given by you earlier and torn it off.

Your action of defrauding the sellers, producing false bills to the bank misrepresenting the facts and manhandling Mr.Renukaradhya is highly objectionable which tarnished the image of the bank lowering the credibility of the bank employees in the eyes of public, which amounts to breach of Regulation 19 read with Regulation 30(1) of the Staff Service Regulations 1980 of the Bank.”

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Shri D. Raja Reddy, who was appointed as enquiry officer, submitted report dated 8-11-1999 with the finding that the charges levelled against the delinquent (respondent herein) are proved. The Chairman of the bank accepted the enquiry report and issued notice dated 31-1-1994 to the respondent proposing his removal from service under Clause 39 (i) (e) of the 1980 Regulations. After considering the written submissions filed by the respondent and giving him opportunity of personal hearing, the Chairman of the bank passed order dated 26-4-1994, whereby he imposed the penalty of stoppage of four increments with cumulative effect on the respondent. For the sake of reference, the relevant extracts of that order are reproduced below:

“For the misconduct of defrauding an amount of

Rs.37,500/- to the sellers, producing the false bills to the bank, misrepresenting the facts and manhandling Mr.Renuk Aradhya.

Vide Regulation No.30(i)(b) of RGB (Staff) Service Regulations 1980 awarded the punishment of

“Stoppage of four increments which will have the effect of postponing the future increments.”

Further the suspension of Mr.S.Adinarayana Reddy stands lifted. However, he will be deemed to have been reinstated into the services of the bank with effect from the date of reporting at the branch to be posted by the head office. The posting orders of Mr.S.Adinarayana Reddy shall be issued separately. He will not be entitled/eligible to any back wages and other benefits for the suspension period except the subsistence allowance which he had already drawn. The period of suspension shall be treated as period not spent on duty.

If the employee so desires, he may prefer an appeal against the orders of the Chairman to the Board within 30 days from the date of receipt of this letter/order.”

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The appeal preferred by the respondent was dismissed by the Board of Directors of the bank.

The respondent challenged the order of punishment as well as the appellate order in Writ Petition No.1515 of 1995 on the ground of violation of the rules of natural justice and also on the ground that the charges levelled against him cannot be treated as proved because he had been acquitted in the criminal case registered at the instance of M.Renuka Aradhya.

The learned Single Judge disposed of the writ petition by directing that the punishment already suffered by the writ petitioner (respondent herein) as of now can be treated as sufficient and he shall be entitled for restoration of four increments from 1-9-2006. As regards the period of suspension, the learned Single Judge directed that the writ petitioner may make a representation to the competent authority of the bank for payment of full salary, which shall be considered and disposed of by the competent authority.

We have heard learned counsel for the parties. In our opinion, the order under challenge is liable to be set aside. It is trite to say that the power of judicial review of the action taken by the employer against an employee found guilty of misconduct is very limited. The Court can nullify such action if it is satisfied that there has been a violation of the statutory provisions or the rules of natural justice and such violation has prejudiced the case of the delinquent. If the action taken by the employer is not found to be vitiated due to violation of the statutory rules, if any, or the principles of natural justice, the Court cannot interfere with the punishment. Only in exceptional cases, the Court can direct the employer to reconsider the quantum of punishment and that too when it is convinced that the punishment is wholly arbitrary or disproportionate to the misconduct found proved or the conscience of the Court is shocked by the gravity of the punishment.

The aforesaid propositions have been culled out by us from the judgments of the Supreme Court in **State of Orissa v. Bidyabhushan Mohapatra**^[1]; **State of A.P. v. Sree Rama Rao**^[2]; **State of Madras v. G.Sundaram**^[3]; **Railway Board v. Niranjan Singh**^[4]; **State of A.P. v. C.Venkata Rao**^[5]; **B.C.Chaturvedi v. Union of India**^[6]; **Apparel Export Promotion Council v. A.K. Chopra**^[7]; **Om Kumar v. Union of India**^[8]; **Regional Manager, U.P. SRTC v. Hoti Lal**^[9] and **Director General, RPF v. Ch. Sai Babu**^[10].

In the present case, the learned Single Judge has not recorded a finding that the enquiry held against the writ petitioner (respondent herein) is vitiated due to violation of the provisions contained in the 1980 Regulations or the principles of natural justice. He also did not find the punishment of stoppage of four increments with cumulative effect is arbitrary, unreasonable or shockingly disproportionate. Rather, the learned Single Judge observed that the punishment cannot be said to be arbitrary or unreasonable, though in the same sentence

he proceeded to observe that such punishment should not have been imposed in the facts and circumstances for the entire period. This is evinced from the following extract of the order under challenge:

“However, the conduct of the petitioner cannot be said to be free from suspicion. In view of the above, I am of the opinion that the punishment of imposing of four increments with cumulative effect cannot be said to be arbitrary or unreasonable; but, nevertheless, such punishment could not have been imposed, in the facts and circumstances of the case for the entire period of service.”

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In our considered view, without recording a specific finding on the invalidity of the action taken by the management of the bank and without holding that the punishment imposed by the competent authority is contrary to law or is vitiated due to violation of the rules of natural justice, the learned Single Judge could not have declared that the punishment already suffered by the writ petitioner would meet the ends of justice.

The approach adopted by the learned Single Judge appears to be influenced by the considerations which are relevant for deciding criminal appeal etcetera where the court, on being satisfied that the sentence already undergone by the accused is sufficient, orders his release. However, such considerations cannot have any bearing on the decision of a case involving challenge to the order of punishment passed by the competent authority after holding enquiry.

We would have ourselves adjudicated on the legality of the order passed by the competent authority of the bank, but refrain from doing so because we do not have the benefit of the judgment rendered by the competent court in the criminal case instituted against the petitioner. There is another reason for not adopting that course. Either party, which feels aggrieved by the order passed by the learned Single Judge, has a legitimate right to prefer an appeal under Clause 15 of the Letters Patent, and we do not think it to be a fit case in which either of the parties should be deprived of that right.

In the premise aforesaid, the appeal is allowed. The order under challenge is set aside and the matter is remanded to the learned Single Judge for fresh adjudication of the writ petition. Since the matter is more than eleven years old, we direct that the writ petition be set down for hearing before an appropriate Bench on December 12, 2006.

While disposing the appeal in the manner indicated above, we deem it proper to observe that either of the parties must, within a period of five days from today, place on the record of the writ petition a copy of the judgment of the criminal case.

As a sequel to disposal of the appeal, WAMP.No.2534 of 2006 filed by the appellant for interim relief is disposed of as infructuous.

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G.S.SINGHVI, C.J.

29th November, 2006.

C.V.NAGARJUNA REDDY, J.

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[\[1\]](#) AIR 1963 SC 779

[\[2\]](#) AIR 1963 SC 1723

[\[3\]](#) AIR 1965 SC 1103

[\[4\]](#) AIR 1969 SC 966

[\[5\]](#) AIR 1975 SC 2151

[\[6\]](#) (1995) 6 SCC 749

[\[7\]](#) (1999) 1 SCC 759

[\[8\]](#) (2001) 2 SCC 386

[\[9\]](#) (2003) 3 SCC 605

[\[10\]](#) (2003) 4 SCC 331